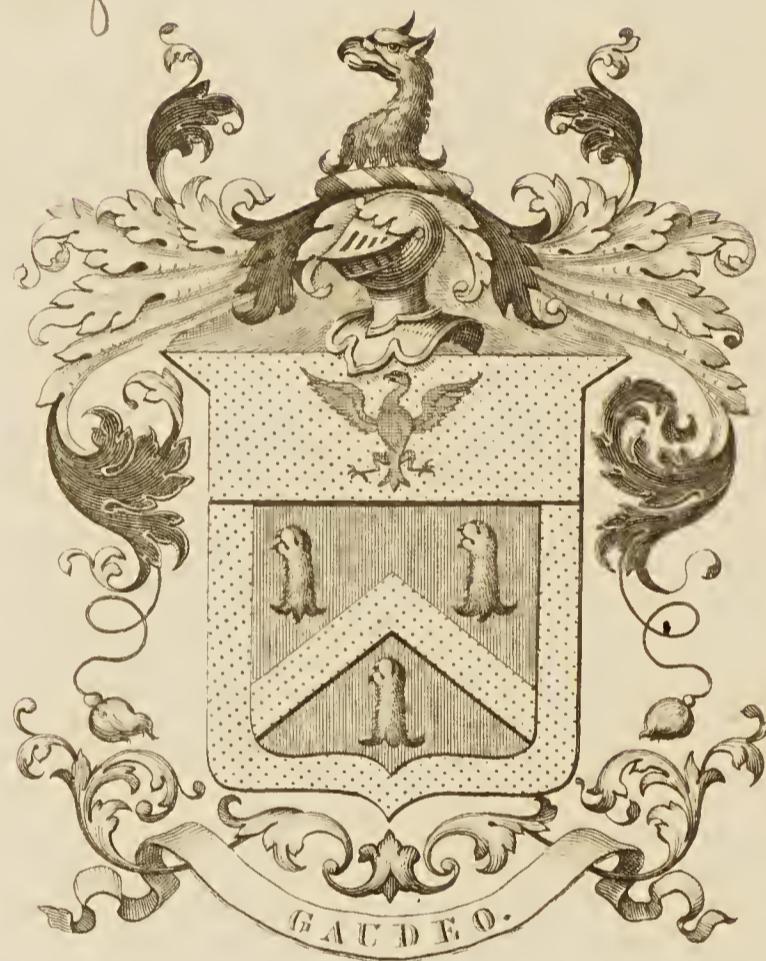


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A S H O R T
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O F T H E

Colony of Massachusetts Bay.

[Price One Shilling and Six-pence.]

RPSCB

A S H O R T
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H I S T O R Y
O F T H E
C O L O N Y
O F
MASSACHUSETTS BAY,

With Respect to their
Original CHARTER and CONSTITUTION.

By Mandeville

L O N D O N:

Printed for J. WILKIE, No. 71, at the Bible
in St. Paul's Church-Yard. 1769.

JOHN C. MILLER BROWN

RP
1900

A S H O R T
V I E W
O F T H E
H I S T O R Y
O F T H E

Colony of Massachusetts Bay,

With Respect to their original CHARTER
and CONSTITUTION.

IN all the late *American* Disturbances, and in every Attempt against the Authority of the *British* Government, the People of *Massachusetts Bay* have taken the Lead. Every new Move towards Independence has been theirs: And in every fresh Mode of Resistance against the Laws, they have first set the Example, and then issued their admonitory Letters to the other Colonies to follow it.

The Province of *Massachusetts Bay* being one of the first Charter Governments, they have greatly valued themselves upon that Account. And in their public Proceedings, as well as in their pri-

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vate Writings, have been constantly holding out to us their first Charter Rights, and the original Terms of their Colonization.

This makes it necessary to examine what those Charter Rights are, and what is that Degree of Authority which belongs to them. And here the first Consideration, which obviously presents itself, is this, that these Charters are Grants only from the Crown: And that no Grant of the Crown can supersede the Authority of an Act of Parliament. At no Period of our History therefore could it have been possible, that the single Power of one Part of the Legislature, should be superior to the joint Authority of the Whole.

But whatever may have been the Principles of the Constitution, it must be confessed, that the Power of the Crown, during the arbitrary Reign of the *Stuarts*, was extremely undefined and but little understood. And, tho' checked by the Civil Wars, was never clearly fixed till the Revolution. In the two first of these Reigns Men were much more intent on getting Grants from the Crown, than on disputing the Validity of them. In an Age therefore while the Subject was in the dark, and the Prerogative undefined, a just Allowance ought to be made to the Ignorance and Prejudices of the Times. And some Indulgence would certainly be due to any of the Subjects, who were misled by

by them, and had placed a greater Degree of Dependence on them than they deserved. Should it therefore appear, that the Charters of King *James* and *Charles* the First did really contain a Grant of all those extensive Rights, which are now assumed; and that the Royal Assurance of the full Enjoyment of these Privileges was the real Ground and Motive upon which the Country was first peopled, this Consideration ought doubtless to have its Weight. Although the Crown might not have a Right to grant such exclusive Privileges, yet the Grants having once been made, and the Colonists having settled upon the Faith of them, they doubtless thereby acquire a Sanction and an Authority, which nothing but the most urgent Necessity can justly alter. Though wrongly given, they are rightly established, and it would be much more wrong to take them away.

What those Rights are, which the People of *Boston* pretend to claim under their Charter, may be seen in the two following Papers; the one of which was preparatory to the subsequent Resolutions contained in the other.

What those Rights are, which are really contained in their Charter, will appear from the following short Account of their first Settlement and Charter, with their Opinions and Practice upon it.

The Reader will find the same Account in *Neal's* and *Douglass's*, and *Hutchinson's* Histories. I have only extracted it for his Ease, from a Variety of other Matter, in which the present Question is not concerned. This last History is by much the best; and Mr. *Hutchinson*, being himself Lieutenant Governor and Chief Justice of that Province, and of a Family that was among the first Settlers, is doubtless the most unexceptionable Authority.

Extract from the Boston Gazette, Sept. 5, 1768.

Messieurs EDES and GILL,

Please to give the following Queries a Place in your next, and you'll oblige, at least, some of your constant Readers.

[Reader! Attend!]

Query 1. **W**HETHER the Liberty of a *Freeman* or an *Englishman*, which distinguishes him from a *Slave*, does not necessarily imply some Sort of Right and Property of his own, which no Man has or can have a Right to without his Consent or actual Alienation of the same?

Q. 2. Whether the free born Subjects of his *Britannic Majesty*, or of any other Monarch, have not a Right of Migration with their moveable Estate, from their Sovereign's Dominions, into any other Dominion that they shall chuse?

Q. 3. If a Number of Families should migrate from his *Britannic Majesty's* Dominions, and set down in another's Dominions, whose Subjects are they now? E. G. The first Settlers of *Plymouth* in *New-England* migrated from *England*, and sat down in *Holland*, where they lived ten Years before their Remove to *New-England*, whose Subjects were they while they lived in *Holland*? Were they the King of *England's*? Whose Laws were they governed

governed by in that Time? Were they the King of England's? Did the British Parliament lay a Tax upon them while there, to raise a Revenue for his Britannic Majesty?

Q. 4. Whether the aboriginal Natives of *North-America* were not the proper Lords and Proprietors of these Lands, before the *English* arrived? Whether the *English* could have any just Right to take Possession without purchasing the Lands of the Proprietors, or obtaining a Grant of them? Whether they purchased the Lands with their own Money, or with the Crown of *England's*? If with their own, (which I suppose was Fact) whether they had not a Right to set up an independent Government of their own? And if they had done it, whether *Great-Britain* could in Justice have claimed any more Right to their Possessions, and to impose Laws upon them without their Consent, or to interrupt their right-ful and peaceable Possession and Government, than they had to the States of *Holland*?—Or than they could have had to them, if they had continued in *Holland* to this very Day?

Therefore,

Q. 5. Whether the political Union, Connection, Dependence, and Subordination of the original unconquered Colonies in *North-America* to the British Empire and Government (who have all along supported and defended themselves at vast Expence) whereby they become properly a Branch of the British Empire, and in which they glory as being Fellow-subjects with, and entitled to the same Rights, Liberties, and Immunities of *Englishmen* inhabiting of *Great-Britain*, are not intirely founded in the Covenants and Compacts between *Great-Britain* and these Colonies, which are contained in their Charters?

Q. 6. If such Measures are taken on the Part of *Great-Britain*, either by the British Parliament, or by the King's Ministers and Representatives, supported by the Government at home, which sap the very Vitals of our Charters, and tend directly and immediately to reduce the Colonists into a State of Slavery; Whether the political Union, Connection, &c. &c. of these Colonies to the British Empire and Government, are not hereby intirely dissolved, and the Colonists reduced to a State of Nature?

Nature? And if so, Whether any of the *American* Governors, considered as the King's Representatives, and other Crown-officers, Commissioners and Pensioners, residing in *America*, have any more Right or Authority, for the Time being, to officiate in the *Colonies* than in the States of *Holland*, or than in any other independent State?

Q. 7. As it is a Matter of the last Importance to *the Safety and Prosperity* both of *Great-Britain* and *the Colonies*, That the political Union, Connection, Dependence, and Subordination of the *Colonies* to *Great-Britain*, be kept and maintained firm and inviolable; Whether such, (whether they are the King's Ministers at home, or his Representatives in the *Colonies*) as are forming such Plans, and endeavouring to bring them into Execution, which tend directly and immediately to dissolve the Union of *Great-Britain* and the *Colonies*, and to bring the *Colonists* into a State of Slavery, ought not to be considered and treated, both by *Great-Britain* and the *Colonists*, as avowed Enemies to the *British Empire*?

Q. 8. Whether, The late Acts of Parliament for raising a Revenue on the *Colonists* without their Consent—The Suspending the legislative Power of *New York*—The appointing new Officers and Pensioners to reside in the *American Colonies*—The Attempts to procure the King's soldiers to guard and assist the new Commissioners in the Execution of their Commissions—The declaring the circular Letter of the *Massachusetts-Assembly* (which was full of Decency and Loyalty) to be inflammatory, and tending to stir up unwarrantable Combinations against Government—The Requisition of a King's Minister to the late General Assembly of the *Massachusetts Bay*, to rescind a Resolution of a former Assembly, with an Order to the Governor, in Case of Refusal, to dissolve the General Court—The Governor's dissolving the said Court, and declaring that he could not issue Writs for another, till further Orders from Home—I say, Whether all these together do not necessarily imply an open Infraction, and vacating our Charters; or, at least, a leaping over all those Covenants and Compacts contained in them, which are the Basis of our political Union to *Great-Britain*?

Q. 9. If Governor *Bernard* cannot issue Writs for another Assembly till further Orders, which can be true only upon the Supposition that our Charter is vacated; or if it is fact, that our Charter is vacated, and we reduced to a State of Nature; whether it is not expedient for the Inhabitants of every Town in this Province to chuse Representatives for a General Assembly, with Instructions when met in a General Assembly, to enter into a Covenant, that they will not renounce their Allegiance to King *GEORGE* the Third of *Great-Britain, France, and Ireland*, that they will maintain good Order and Government, and that the Civil Laws of this Province shall remain in full Force, and the Officers of Justice, and military Officers, shall stand in their Places, and execute their respective Offices, as occasion shall require, for the Time being, except the Crown-officers and Pensioners; also that the Courts of Civil Judicature shall continue for the Time being; also to present a Memorial of the true State of Things in the Province to his *Britannic Majesty*, expressing to him in a very decent and becoming Manner, that the Affections of this People to his Royal Person, Family, and Government, are so great, that there is nothing on this Side Eternity they dread more than a being broken off from his benign Government; and most earnestly praying him to descend to renew the Charter-covenant and Compact with us, and to enlarge the Privileges of it to the Extent of the first original Charter of this Government, and to consider and treat all those as Enemies to his happy Reign, and the Prosperity of his Empire, who have been plotting the Slavery of three Millions of his most dutiful and loyal Subjects?—Obj. If we do this, the King and Parliament will declare us Rebels! A. They cannot in Justice do it, for this Measure is in order to get our Union and Subordination to the Government of *Great-Britain* renewed and confirmed on a solid Basis: Obj. But what if they will do it, and send an Army to subdue us? A. Subdue us, to what? To be loyal Subjects of his *Britannic Majesty*? That is what we have been, and are still desirous to be, as any his Majesty has in his vast Empire; or is it to reduce us to Slavery? If an Army should be sent for this Purpose, we will tell them, that

we

we are willing and desirous to be their Fellow-subjects—
 That we are *Englishmen*, and claim the Privileges of
Englishmen, but will never submit to be Slaves to our
 Fellow-subjects; and if this will not satisfy them, we
 will put our Lives in our Hands, and cry to the Judge
 of all the Earth who will do right, saying, “Behold—
 “ how they reward us, to come to cast us out of thy
 “ Possession which thou hast given us to inherit: O our
 “ God wilt not thou judge them?—Lord, it is nothing
 “ with thee to help, whether with many or with them
 “ that have no Power; help us, O LORD our GOD;
 “ for we rest on thee, and in thy Name we go against
 “ this Multitude: O LORD thou art our God, let not
 “ Man prevail against thee.”—

And as it must be owned that a dark Cloud hangs
 over Great-Britain and the *American Colonies*, it is hereby
 humbly proposed to all that wish well to the *British Empire*, and have a Value for Liberty and Property, to
 spend one Hour, from Eight to Nine o’Clock every Saturday Evening, in your Closets, to pray for the King
 and Queen of Great-Britain, that their Reign may be
 happy and prosperous: To pray for the King’s Family,
 that it may always afford illustrious Defenders and Main-
 tainers of true *English Liberty* and the Protestant Reli-
 gion.—That “the wicked may be taken away from be-
 fore the King, that his Throne may be established in
 Righteousness.”—That the King may be wise as
 an Angel of God to discern between his faithful Servants,
 and the Enemies of the *British Constitution*, and timely
 find out and drive away from the *British Ministry* all the
 wicked *Haman’s*, the crafty *Ahitophel’s* and *Gallican Pen-
 signers*, sagacious and trusty *Hushai’s*, the King’s Friends,
 and renowned *Mordecai’s*, who are great among—and
 accepted of the Multitude of their Brethren, seeking the
 Wealth of their People, and speaking Peace to all.—
 That the Hearts of *British Fathers* may be turned to
 their *American Children*, and the Hearts of these Chil-
 dren to their Fathers, that we may not be smitten with
 a Curse.—That the political Union of Great-Britain and
 the *Colonies* may be renewed and established on a firm
 and lasting Foundation—That all Kinds of God-pro-
 voking Evils in Great-Britain and the *Colonies* may be
 removed,

removed, and that the true Religion of the all glorious
Immanuel may universally prevail.

CLERICUS AMERICANUS.

*Extract from the BOSTON Evening-Post, Monday, Sept. 19,
1768.*

At a Meeting of the Freeholders and other Inhabitants
of the Town of Boston, legally qualified and warned
in public Town Meeting, assembled at Faneuil-Hall,
on Monday the 12th of September, A. D. 1768.

The Meeting was opened with Prayer by the Reverend
Dr. COOPER.

The Hon. JAMES OTIS, Esq; was unanimously
chosen Moderator.

THE Petition of a considerable Number of the respec-
table Inhabitants to the Select-men, dated the 8th
Instant, praying that the Town might be forthwith le-
gally convened, to enquire of his Excellency the Gover-
nor the Grounds and Reasons of sundry Declarations
made by him, that three Regiments may be daily ex-
pected here, two of them to be quartered in this Town,
and one at Castle William; as also to consider of the most
wise, constitutional, loyal, and salutary Measures to be
adopted on such an Occasion, was read—whereupon the
following Vote was passed.

*Whereas it has been reported in this Town Meeting, that
his Excellency the Governor has intimated his Apprehensions
that one or more Regiments of his Majesty's Troops are daily
to be expected here:*

VOTED, That the Honourable Thomas Cushing, Esq;
Mr. Samuel Adams, Richard Dana, Esq; John Rowe, Esq;
John Hancock, Esq; Benjamin Kent, Esq; and Dr. Joseph
Warren, be a Committee to wait upon his Excellency,
if in Town, humbly requesting that he would be pleased
to communicate to the Town the Grounds and Assurances
he may have thereof.

C

Upon

Upon a Motion made and seconded,
VOTED, That the following Petition be presented to his Excellency the Governor,—and a Committee was appointed for the Purpose, who were directed humbly to request his Excellency to favour the Town with an immediate Answer.

To his Excellency *Francis Bernard, Esq;* Governor and Commander in Chief of his Majesty's Province of the *Massachusetts Bay in New-England.*

May it please your Excellency,

THE Inhabitants of the Town of *Boston* legally assembled, taking into Consideration the critical State of the public Affairs, more especially the present precarious Situation of our invaluable Rights and Privileges, civil and religious, most humbly request that your Excellency would be pleased forthwith to issue Precepts for a General Assembly, to be convened with the utmost Speed, in order that such Measures may be taken as in their Wisdom they may think proper for the Preservation of our said Rights and Privileges.

And your Petitioners as in Duty bound, &c.

Upon a Motion made and seconded, a Committee was appointed to take the State of our public Affairs into Consideration, and report at the Adjournment the Measures they apprehend most salutary to be taken in the present Emergency.

Adjourn'd till the next Day 10 o'Clock, A. M.

TUESDAY, the 13th September, 10 o'Clock, A. M. met accordingly.

THE Committee appointed Yesterday to wait upon his Excellency with the Petition and Request of the Town, reported from his Excellency the following Answer in Writing.

GENTLE.

GENTLEMEN,

MY Apprehensions that some of his Majesty's Troops are to be expected in Boston, arise from Information of a private Nature: I have received no public Letters, notifying to me the coming of such Troops, and requiring Quarters for them: Whenever I do, I shall communicate them to his Majesty's Council.

The Business of calling another Assembly for this Year, is now before the King; and I can do nothing in it, until I receive his Majesty's Commands:

FRA. BERNARD.

The Committee appointed to take the State of our public Affairs into Consideration, reported the following Declaration and Resolves.

WHHEREAS it is the first Principle in Civil Society, founded in Nature and Reason, That no Law of the Society can be binding on any Individual, without his Consent, given by himself in Person, or by his Representative, of his own free Election.

And whereas in and by an A&t of the British Parliament passed in the first Year of the Reign of King *William* and Queen *Mary*, of glorious and blessed Memory, entitled, An A&t declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown; the Preamble of which A&t is in these Words, viz. "Whereas " the late King *James* the Second, by the Assistance of " divers evil Counsellors, Judges, and Ministers em- " ployed by him, did endeavour to subvert and extirpate " the Protestant Religion, and the Laws and Liberties " of this Kingdom;" It is expressly among other Things declared, That the levying Money for the Use of the Crown, by Pretence of Prerogative, without Grant of Parliament, for a longer Time, or in other Manner than the same is granted, is illegal:

And whereas in the third Year of the Reign of the same King *William* and Queen *Mary*, their Majesties were graciously pleased, by their Royal Charter, to give and grant to the Inhabitants of this his Majesty's Province, all the Territory therein described, to be holden in free and

and common Soccage: And also to ordain and grant to the said Inhabitants certain Rights, Liberties, and Privileges therein expressly mentioned: Among which it is granted, established, and ordained, That all and every the Subjects of them, their Heirs and Successors, which shall go to inhabit within said Province and Territory, and every of their Children, which shall happen to be born there, or on the Seas in going thither, or returning from thence, shall have and enjoy all Liberties and Immunities of free and natural Subjects, within any of the Dominions of them, their Heirs and Successors, to all Intents, Purposes, and Constructions whatever, as if they and every of them were born within the Realm of *England*:

And whereas by the aforesaid Act of Parliament made in the first Year of the said King *William* and Queen *Mary*, All and singular the Premises contained therein, are claimed, demanded, and insisted on, as the undoubted Rights and Liberties of the Subjects born within the Realm:

And whereas the Freeholders and other Inhabitants of this Town, the Metropolis of the Province, in said Charter mentioned, do hold all the Rights and Liberties therein contained, to be sacred and inviolable: At the same Time publicly and solemnly acknowledging their firm and unshaken Allegiance to their alone rightful Sovereign King *GEORGE* the Third, the lawful Successor of the said King *William* and Queen *Mary* to the *British* Throne: Therefore,

RESOLVED, That the said Freeholders and other Inhabitants of the Town of *Boston*, will at the utmost Peril of their Lives and Fortunes, take all legal and constitutional Measures to defend and maintain the Person, Family, Crown, and Dignity of our said Sovereign Lord *GEORGE* the Third; and all and singular the Rights, Liberties, Privileges, and Immunities granted in the said Royal Charter; as well those which are declared to be belonging to us as *British* Subjects by Birthright, as all others therein specially mentioned.

And whereas by the said Royal Charter it is specially granted to the Great and General Court or Assembly therein constituted, to impose and levy proportionable and

and reasonable Assessments, Rates, and Taxes upon the Estates and Persons of all and every the Proprietors and Inhabitants of the said Province or Territory, for the Service of the King, in the necessary Defence and Support of his Government of the Province, and the Protection and Preservation of his Subjects therein :

Therefore,

VOTED, as the Opinion of this Town, That the levying Money within this Province for the Use and Service of the Crown, in other Manner than the same is granted by the Great and General Court or Assembly of this Province, is in Violation of the said Royal Charter ; and the same is also in Violation of the undoubted natural Rights of Subjects, declared in the aforesaid Act of Parliament, *freely to give and grant their own Money for the Service of the Crown, with their own Consent, in Person, or by Representatives of their own free Election.*

And whereas in the aforesaid Act of Parliament it is declared, That the raising or keeping a standing Army, within the Kingdom in Time of Peace, unless it be with the Consent of Parliament, is against Law : It is the Opinion of this Town, that the said Declaration is founded in the *indefeasible Right* of the Subjects to be *consulted, and to give their free Consent, in Person, or by Representatives of their own free Election, to the raising and keeping a standing Army among them* : And the Inhabitants of this Town, being free Subjects have the same Right, derived from Nature and confirmed by the British Constitution, as well as the said Royal Charter ; and therefore the raising or keeping a standing Army, without their Consent, in Person or by Representatives of their own free Election, would be an Infringement of their Natural, Constitutional and Charter Rights ; and the employing such Army for the enforcing of Laws made without the Consent of the People, in Person, or by their Representatives, would be a Grievance.

The foregoing Report being divers Times distinctly read, and considered by the Town—The Question was put, *Whether the same shall be accepted and recorded?* and passed unanimously in the Affirmative.

Upon

Upon a Motion made and seconded, the following Vote was unanimously passed, viz.

WH E R E A S by an Act of Parliament of the first of King *William* and Queen *Mary*, it is declared; That for the Redress of all Grievances, and for amending, strengthening, and preparing the Laws, Parliaments ought to be held frequently, and inasmuch as it is the Opinion of this Town, that the People labour under many intolerable Grievances, which unless speedily redressed, threaten the total Destruction of our invaluable, natural, constitutional and Charter Rights.

And furthermore, As his Excellency the Governor has declared himself unable, at the Request of this Town, to call a General Court, which is the Assembly of the States of this Province, for the Redress of such Grievances:

VOTED, That this Town will now make Choice of a suitable Number of Persons to act for them as a Committee in Convention, with such as may be sent to join them from the several Towns in this Province, in order that such Measures may be consulted and advised as his Majesty's Service, and the Peace and Safety of his Subjects in the Province may require.

Whereupon,

The Hon. JAMES OTIS, Esq;

Hon. THOMAS CUSHING, Esq;

Mr. SAMUEL ADAMS, and

JOHN HANCOCK, Esq;

were appointed a Committee for the said Purpose; the Town hereafter to take into Consideration what Recompence shall be made them for the Services they may perform.

VOTED, That the Selectmen be directed to write to the Selectmen of the several Towns within this Province, informing them of the foregoing Vote, and to propose that a Convention be held, if they shall think proper, at *Faneuil-Hall*, in this Town, on *Thursday* the 22d of September instant, at Ten o'Clock Before-noon.

Upon

Upon a Motion made and seconded, the following Vote was passed by a very great Majority, *viz.*

WHÈREAS by an Act of Parliament of the first of King *William* and Queen *Mary*, it is declared, That the Subjects being Protestants, may have Arms for their Defence: It is the Opinion of this Town, that the said Declaration is founded in Nature, Reason, and sound Policy, and is well adapted for the necessary Defence of the Community:

And forasmuch, As by a good and wholesome Law of this Province, every listed Soldier and other Householder (except Troopers, who by Law are otherwise to be provided) shall be always provided with a well fix'd Firelock, Musket, Accoutrements and Ammunition, as is in the said Law particularly mentioned, to the Satisfaction of the Commission Officers of the Company: And as there is at this Time a prevailing Apprehension, in the Minds of many, of an approaching War with *France*: In order that the Inhabitants of this Town may be prepared in Case of sudden Danger: *VOTED*, That those of the said Inhabitants, who may at present be unprovided, be and hereby are requested duly to observe the said Law at this Time.

The Hon. *Thomas Cushing*, Esq; communicated to the Town a Letter lately received from a Committee of Merchants in the City of *New-York*, acquainting him with their Agreement relative to a Non-importation of *British Goods*—Whereupon the Town by a Vote expressed their high Satisfaction therein.

The Town taking into serious Consideration the present Aspect of their public Affairs, and being of Opinion that it greatly behoves a People professing Godliness, to address the supreme Ruler of the World, on all important Occasions, for that Wisdom which is profitable to direct:

VOTED unanimously, That the Selectmen be a Committee to wait on the several Ministers of the Gospel within this Town, desiring that the next *Tuesday* may be set apart as a Day of Fasting and Prayer.

Ordered, That the Votes and Proceedings of the Town in their present Meeting, be published in the several News-Papers.

The

The Town voted their Thanks to the Moderator for his good Services, and the Meeting was dissolved.

Attest.

WILLIAM COOPER, Town-Clerk.

The following is a Copy of the Circular Letter, written by the Selectmen of this Town, and directed to the Selectmen of the several Towns within this Province; agreeable to a Vote at the Meeting on the 13th Instant.

GENTLEMEN,

Boston, September 14, 1768.

YOU are already too well acquainted with the melancholy and very alarming Circumstances to which this Province, as well as *America* in general, is now reduced. Taxes equally detrimental to the commercial Interests of the Parent Country and her Colonies, are imposed upon the People, without their Consent:—Taxes designed for the Support of the Civil Government in the Colonies, in a Manner clearly unconstitutional, and contrary to that, in which, till of late, Government has been supported, by the free Gift of the People in the *American Assemblies or Parliaments*; as also for the Maintenance of a large standing Army; not for the Defence of the newly acquired Territories, but for the old Colonies, and in a Time of Peace. The decent, humble, and truly loyal Applications and Petitions from the Representatives of this Province for the Redress of these heavy and very threatening Grievances, have hitherto been ineffectual, being assured, from authentic Intelligence, that they have not yet reached the Royal Ear: The only Effect of transmitting these Applications hitherto perceptible, has been a Mandate from one of his Majesty's Secretaries of State to the Governor of this Province, to dissolve the General Assembly, merely because the late House of Representatives refused to rescind a Resolution of a former House, which implied nothing more than a Right in the *American Subjects* to unite in humble and dutiful Petitions to their gracious Sovereign, when they found themselves aggrieved: This is a Right naturally inherent in every Man, and expressly recognized at the glorious Revolution as the Birth-right of an *Englishman*.

This

This Dissolution you are sensible has taken place; the Governor has publicly and repeatedly declared that he cannot call another Assembly; and the Secretary of State for the *American* Department in one of his Letters communicated to the late House, has been pleased to say, that "proper Care will be taken for the Support of the "Dignity of Government;" the Meaning of which is too plain to be misunderstood.

The Concern and Perplexity into which these Things have thrown the People, have been greatly aggravated, by a late Declaration of his Excellency Governor BERNARD, that one or more Regiments may soon be expected in this Province.

The Design of these Troops is in every one's Apprehension nothing short of enforcing by military Power the Execution of Acts of Parliament, in the forming of which the Colonies have not, and cannot have any constitutional Influence. This is one of the greatest Distresses to which a free People can be reduced.

The Town which we have the Honour to serve, have taken these Things at their late Meeting into their most serious Consideration: And as there is in the Minds of many a prevailing Apprehension of an approaching War with *France*, they have passed the several Votes, which we transmit to you; desiring that they may be immediately laid before the Town, whose Prudentials are in your Care, at a legal Meeting, for their candid and particular Attention.

Deprived of the Councils of a General Assembly in this dark and difficult Season, the loyal People of this Province will, we are persuaded, immediately perceive the Propriety and Utility of the proposed Committee of Convention: And the sound and wholesome Advice that may be expected from a Number of Gentlemen chosen by themselves, and in whom they may repose the greatest Confidence, must tend to the real Service of our gracious Sovereign, and the Welfare of his Subjects in this Province; and may happily prevent any sudden and unconnected Measures, which in their present Anxiety, and even Agony of Mind, they may be in Danger of falling into.

[18]

As it is of Importance that the Convention should meet as soon as may be, so early a Day as the 22d of this Instant *September* has been proposed for that Purpose —and it is hoped that the remotest Towns will by that Time, or as soon after as conveniently may be, return their respective Committees.

Not doubting but that you are equally concerned with us and our Fellow-citizens for the Preservation of our invaluable Rights, and for the general Happiness of our Country, and that you are disposed with equal Ardor to exert yourselves in every constitutional Way for so glorious a Purpose.

Signed by the Selectmen.

A short

A short View of the History of the Colony of Massachusetts Bay, &c.

THE fresher and more perfect Discoveries of the Coast of *North America*, and some successful Voyages, which had been made thither, in the Beginning of the last Century, led a Number of Gentlemen and Merchants into an Opinion, that they might raise to themselves great Estates by sending People from *England* to settle in that Country, and trade with the Natives of it. They applied to the Crown, and King James in one Patent granted the whole *North American* Continent, from the Latitudes 34 to 45, to two Companies of such Merchant Adventurers. The southern Part to a Sett of *Londoners*, and the Northern to a Sett of Merchants living in the West of *England*, chiefly at *Plymouth*, and therefore called the *Plymouth Company*.

The two Companies, in order to make the proper Advantage of their Grants, engaged a Variety of People to go over. The first Attempts, especially those to the Northward, were unsuccessful; and the Adventurers spent large Sums of Money in sending out Settlers, who were soon discouraged and returned Home.

In the Year 1608 a Sett of religious People, who called themselves *Brownists*, and who held it unlawful for them to join in Communion with any other Church, having been persecuted in *England*, removed themselves to *Holland*, for the peaceable Enjoyment of their own Mode of Church Worship and Government. In a very few Years they found that their Children, by entering into the *Dutch* Sea and Land Service, degenerated into the Manners of the Country, and would become *Dutchmen*, and that their Church would thereby soon be brought to an End.

To prevent this, which they thought a Matter of infinite Importance, they formed a Design of going to live by themselves in *America*. For this Purpose in the Year 1617 they sent over two Agents to treat with the *London* Patentees ; offering to transport themselves into their Part of that Country, and desiring only, that the Company would petition the King to grant them Liberty in their Religion under the great Seal. The King's Answer was, that he would not disturb them as long as they lived peaceably ; but that he would not tolerate them by his public Authority under his Seal. This discouraged them : The Agents returned to *Leyden*, and they laid aside the Design for that Year. But being more and more alarmed with the Danger of remaining in *Holland*, they at length

length resolved to adventure upon this verbal Declaration ; and having sent over their Agents a second Time, after long Attendance they obtained a Grant of Land under the Seal of the *London Company*, made out to Mr. *John Wincob*, a Gentleman living with the Earl of *Lincoln*.

Upon the Grant of this Patent they came over to *England* ; and sailed from *Southampton* in *August 1620* ; leaving the Patent in the Possession of Mr. *Wincob*, who remained in *England*.

In their Voyage to *America* they were driven to the Northward, and landed near *Cape Cod* ; where, finding that they were got into the Limits of the *Plymouth Company*, they called the Place they settled in *New Plymouth*, in *New England*.

Some Mutterings, which had been heard among those of an inferior Class, that when they should get ashore, one Man would be as good as another, convinced them during their Passage, that Religion alone would not keep the Peace, without the Authority of Government : This led them to draw up the following Instrument, which every Man signed before he landed.

“ In the Name of God, Amen.—We whose
“ Names are underwritten, the loyal Subjects of
“ our dread Sovereign Lord King James, by the
“ Grace

" Grace of God of Great-Britain, France, and Ire-
 " land, King, Defender of the Faith, &c. Having
 " undertaken for the Glory of God and Advance-
 " ment of the Christian Faith, and Honour of our
 " King and Country, a Voyage to plant the first
 " Colony in the northern Parts of *Virginia*, do
 " by these Presents, solemnly and mutually in the
 " Presence of God and of one another, covenant
 " and combine ourselves together into a civil Body
 " politic, for our better ordering and Preserva-
 " tion, and Furtherance of the Ends aforesaid,
 " and by Virtue hereof to enact, constitute and
 " frame such just and equal Laws and Ordin-
 " nances, Acts, Constitutions, and Offices, from
 " Time to Time, as shall be thought most meet
 " and convenient for the general Good of the
 " Colonies, unto which we promise all due Sub-
 " jection and Obedience. In Witness whereof we
 " have hereunto subscribed our Names at Cape
 " Cod the 11th of November, in the Year of the
 " Reign of our Sovereign Lord King James of
 " England, France, and Ireland, the 18th, and of
 " Scotland the 54th, *Anno Dom. 1620.*"

Signed JOHN CARVER,
 and forty others.

Such was the first of all the *New England* Set-
 tlements; and such the Foundation upon which
 was built the Colony of *New Plymouth*.

No one I suppose will here find a Plea of Independence ; or imagine that Sir *Edwin Sandys* and a Company of *London* Merchants could sell to these poor People a Dismission from the *English* Government : Or that a Grant of their Land, which they afterwards purchased from the *Plymouth* Council, could render them less subject to the Authority of *England*, than they would have been without it. They themselves most certainly did not think it did, else they needed not to have applied to the King for Liberty of Conscience.

This Colony of *New Plymouth* remained a separate Government till the Revolution. After which, by King *William's* Charter, it was annexed to the Province of *Massachusetts Bay*, whose Origin I now relate.

Many of the first West Country Patentees, after having spent large Sums of Money in sending over Settlers to no Purpose, were discouraged by their Losses, and inclined to quit the Adventure.— But there were other Noblemen and Gentlemen, who were ready to take it up, and upon their Application to the King, they obtained a new Grant of all the Country between the Latitudes 40° and 48°, by a Patent bearing Date the 3d of November 1620 ; and made out to them under the Title of “ The Council established at *Plymouth* in the County

" County of *Devon*, for the planting, ruling, ordering, and governing of *New England* in *America*, their Successors and Assigns." This was afterwards called *the Grand Plymouth Patent*.

With these second Patentees Mr. *White*, a Clergyman of *Dorchester*, having projected a new Settlement as an Asylum for ejected Ministers, entered into Treaty. In consequence of which this *Plymouth* Council by their Deed indented under their common Seal, gave, granted, bargained, and sold to Sir *Henry Roswell*, and five other *Dorsetshire* Gentlemen, their Heirs and Assigns, and their Associates for ever, all that Part of *New England* therein described, at the Bottom of a certain Bay, there commonly called *Massachusetts Bay*.

This Grant from the *Plymouth* Council to Sir *Henry Roswell*, &c. is manifestly copied from their own Patent, which had been granted from the Crown. The *Plymouth* Company grant, bargain, sell, infeoff, alien, and dispose to Sir *Henry Roswell* and his five Associates the Tract of Country there described, and all Jurisdictions, Rights, Royalties, Liberties, Freedoms, Immunities, Privileges, Franchises, Pre-eminences, and Commodities whatsoever, which they themselves, the said Council established at *Plymouth*, had or might exercise or enjoy within the said Lands.

Does the Reader imagine, That an Exemption from the Jurisdiction of Parliament was among the Privileges and Immunities thus sold ? or that a Company of Merchants living at *Plymouth*, granting a Tract of Land to another Sett of Merchants residing in *Dorsetshire*, could convey to them a Power of alienating their Allegiance; or of enabling any other Subjects to withdraw their Obedience from the Authority of the King, Lords, and Commons of the Realm ?

These *Dorsetshire* Patentees, finding that the Charge of sending out and maintaining such a Number of Settlers would be too great for them, applied to several Gentlemen of *London* to take a Part in the Adventure. Sir *Richard Saltonstall* and several others agreed to enter into the Company, and engage with them. But upon Condition, that their Names also should be inserted in the Patent as original Proprietors, and that the King should be petitioned to confirm the Agreement. This was accordingly done, and a new Draught of the former Patent, with the Names of these new Adventurers inserted in it, having been drawn out, was confirmed by the King, and passed the Seals on the 4th of *March 1628.*

The Patent from the *Plymouth* Council gave to the Patentees a Right to the Soil; but conveyed none of the Powers of Government requisite to the Establishment of a joint Company.

This Royal Patent or Charter, after confirming this Sale to the six *Dorsetshire* Men, and to twenty others their Associates, created them a Corporation, appointed for them their first Governors and Assistants, and impowered them annually to choose their Successors upon the first *Wednesday* in *Easter* Term.

The Company met accordingly on the 13th of *May* 1628, and chose a Governor, Deputy Governor, and eighteen Assistants. And at the same Court agreed, that every one of the Company, who should subscribe 50*l.* should have 200 Acres for their first Dividend, and proportionably for any greater Sum. A List of the Names of the Subscribers, and the Sums subscribed, was transmitted to Mr. *Endicott*, whom they had just before sent over as their Governor in the Plantation.

Such was the first Royal Charter, and such the original Company for the settling of the *Massachusetts Bay*. A Company formed upon a Plan exactly similar to our present *East-India Company*; consisting of a Number of Gentlemen resident here
in

in *England*, who chose their own Governor, Deputy Governor, and Assistants, out of their own Body resident in *England*; and then sent out a Person under their Authority as Governor for them, to order and dispose of the new Settlement. The first of these was Mr. *Endicott*, whom they dispatched away as soon as the Charter was executed, to take Care of the Colony, and prevent the People, who had been sent before, from returning home again, which they had heard that they were intending.

The Writers in the Papers, who advance so many Things without Foundation, and the factious Leaders who, to deceive the People in the Colonies, talk so arrogantly about the original Terms of Colonization, would do well to ask themselves, whether they really think, that Mr. *Matthew Cradock* and Mr. *Thomas Goff*, and 18 other Gentlemen living in *London*, sent out by Mr. *John Endicott* to the Rev. Mr. *Conant*, and a Number of poor Creatures in *America*, who were starving, and wanting to come home again, a Right of Independence on the Parliament of *England*.

Such was the Constitution of the Company during the first Period of their Charter.—For three successive Elections was the Company formed entirely of Persons resident here.—Soon after this the Severity of the *Laudean* Persecution increasing,

a Number of Gentlemen of Figure and Estate, made a Proposal to the Company to go themselves over, and settle in the Country. But as they were not inferior in Rank and Fortune to the Governors and Assistants themselves, they thought that they had as good a Right to have the Government of the Company in their own Hands, as to leave it in those of the Gentlemen in *England*.

They proposed therefore to the Company at *London* to go over with their Families to *America*; but upon Condition that the Patent and Charter should remove with them. The Company appointed a Committee to consider of this Proposal, and to take the Opinion of Council, whether such a Transfer of the Patent and Charter would be legal. The Council's Opinion, and the Report of the Committee, are not recorded. No one, I suppose, now can doubt but that it was against it, but the Interest of the Company was greatly for it.

From the whole Tenor of their Proceedings, it is apparent, that the View of the Company was Profit; the View of the Settlers was Religion. The one wanted to make a good Return for the Money they had advanced; the other wanted Liberty of Conscience, and the quiet Enjoyment of their own Mode of Worship. The Company had been at great Expence, and found that they had little

little Prospect of making any Advantage of the Plantation in the Way they were in. Whatever Doubts might arise about the Legality, there could be none about the Expediency of engaging such a Number of Gentlemen of Interest and Fortune in the Design. After settling with them therefore the Share of the Stock and Profits, which the Members of the Corporation, who remained in *England*, were to be intitled to for the next seven Years, they became less scrupulous about the Point of Law, and relying upon the Authority of Mr. *White*, a Lawyer, who was one of the Company, they agreed to the Proposal.

In order to carry this Agreement into Execution, a general Court was called the 20th of *October* 1629, consisting of the Governors, the Assistants, and the Generality : At which, for the more easy transferring of the Charter, they chose a new Governor, Deputy Governor, and Court of Assistants, consisting of such Members as offered themselves to go over with it. These new elected Governors and Assistants accordingly sailed from *Southampton* the end of *March* 1630, and carried the Charter with them to *America*.

Such is the History of the first Charter, which ever arrived in *New England*; and the only one under which the Colony of *Massachusetts* acted, till King *William* granted them another after the

Revo-

Revolution. A Charter, which, far from intending to establish any new State independent of this, originally meant nothing more than the forming a Number of Persons here in *London* into a Corporation, for the carrying on of a particular Trade or Adventure under a joint Stock. A Charter, in the granting of which the Crown so little meant to authorize the Company to form a Body of Representatives, who should dispute the Authority of Parliament, that it had not the least Thought of giving them any Right of Representation whatsoever. A Charter, which they themselves so little conceived to contain any such Power, that for some Years after their first Settlement in *America*, they never did choose any thing more than a Governor, Deputy Governor, and Court of Assistants. Upon the last *Wednesday* in *May* the whole Commonalty annually met together, and all of them formed the general Court for the Election. But the Government was intirely in the Governors and the Assistants, when once they were chosen.

In process of Time the Body of the Commonalty grew jealous of this Oligarchy, and with the Increase of their Numbers became unwilling to leave the whole Power of the Government in the Hands of these few. They resolved therefore to add some of their own Body to sit with them. And as they had now spread themselves over the Country, they naturally fell into Customs, which
they

they had been used to, and chose Deputies to represent them. Accordingly at the general Court held in *May 1634*, instead of the whole Commonalty or Freemen coming in a Body, to the great Surprize of the Governor and Assistants, there appeared twenty-four Deputies sent by the several Towns which were then settled.

The Reasonableness of this Proceeding no one need dispute. It may doubtless be justified upon many Accounts; almost indeed upon any Grounds, except only those, on which their Descendents now chuse to rest it. The Remoteness and increasing Number of the Inhabitants rendered it at first dangerous, and afterwards impossible for them all to meet together at *Boston*. The Commonalty or Freemen therefore very naturally assumed to themselves this Power of electing Deputies to represent them at the general Court, and to take care of their Interests. But they must not surely plead their original Charter Rights as a Foundation for those Privileges they now claim to their House of Representatives, when that Charter, having been calculated for a trading Company here in *London*, had not the most distant View to any such Purpose. With a very ill Grace must these Men now upbraid us with their original Terms of Colonization; or set up what they call their constitutional Rights against the Authority of Parliament, when their first Charter and their original Constitution in *New England*

England knew nothing of any House of Representatives at all. Not to add, that, though a Company of Subjects, formed under a Charter in a distant Country, may innocently enough distribute among themselves the Powers given them by that Charter, in what Proportions they find most convenient, for their own internal Government; yet that new Distribution cannot add one Grain of Power against the Parent State more than they had before. Because no Agreement between any two Parties, can prejudice the Rights of a third. And admitting that their choosing of Representatives might at first be innocent, yet if they made that Choice a Ground of any new Claims, it then became criminal: and might be a just Forfeiture of the Charter so abused.

But failing the Charter Right we are next referred to the Right of Birth, and are told that it is the original, inherent, unalienable Right of *Englishmen* to choose their own Representatives, and to be bound by no Laws, but such as are made by themselves or their Representatives, elected by their own free Choice: And that the free Enjoyment of this Right belongs to an *Englishman* as such, and was the Motive and Encouragement, upon which their Forefathers originally engaged in all the Hazards of their first Settlement.

Such are the Doctrines which these deluded People are now taught, to serve the present Occasion.

But

But it happens very unfortunately for the Broachiers of these new Pretensions, that their History affords us the most positive Proof, that this was *not* the Motive or Condition of their first Settlement: And the Conduct of their Forefathers contains the clearest Demonstration that their Opinion was, that this Right of Choice was not the unalienable Right of any Man, either as a Man, or an *Englishman*: For one of the first Determinations of their general Court after their Settlement in *America* was this, That none should be admitted to the Freedom of the Company, or have a Vote at their Elections, but only such as were Church Members.

They who know the rigid Terms, which in those Days were required as Qualifications for Church Membership, will easily see the Force and Extent of this Restriction. These their pious Ancestors, whom their factious Descendants now boast of, most assuredly were not of Opinion that all Men were possessed of this Freedom in Right of their Birth, who resolved that the greater Part of the Settlers had it not; and confined it chiefly, if not solely to the Regenerate. Nor could these good Men have had the least Suspicion, that they deprived one half of their Settlers of any natural and unalienable Right, when they determined that those of them only, who had given Proof to their Ministers and ruling Elders of their being qual-

sied for Church Membership, should be admitted to their Freedom, and allowed to vote at their Elections.

A Transaction in the Year 1646, shews how strongly they were attached to this Principle.

A Scheme was then laid by a Number of Inhabitants, Episcopilians and others, who were excluded from their Freedom and Share in the Government, to petition the General Court; and, if they were refused, to apply to Parliament in Behalf of themselves and many thousands more, who, as they alledged, were excluded by this Law from their civil and religious Rights. They accordingly presented their Petition to the General Court, praying, "That civil Liberty and Freedom might be forthwith granted to all truly English; and that all Members of the Church of England or Scotland, not scandalous, might be admitted to the Privileges of the Churches of New England: Or, if these civil and religious Liberties were refused, that they might be freed from the heavy Taxes imposed on them, and the Impresses made on their Goods, and Children, and Servants, for the War." They who are now so clear in the Doctrine of *No Representation, no Taxation*, may conclude, that this Petition was granted: But so far were their Forefathers from thinking in this Manner, that in their General

General Court, this Petition was charged with being contemptuous and seditious, and the Petitioners were severally fined in different Sums, and required to give Security for their good Behaviour.
Hutch. Hist. p. 145.

Neither this Transaction, nor any thing else, could convince them of the Truth of an Opinion, which their Descendants now pretend to be a self-evident Proposition : That no Man is bound to obey Laws, or pay Taxes, without his own Consent, or that of his Representatives, appointed by his own free Choice. Nay, so perfectly well satisfied were their Ancestors of the contrary, that they continued to make this the Rule of their Conduct to the Dissolution of their Government in the Year 1684. The Law itself indeed, after the Restoration, to save Appearances, was repealed ; but it was still their Rule in Practice, and kept up under another Form.

The Absurdity of the Opinion itself of any actually inherent and unalienable Right, and the general Confusion which it would lead to, is a Matter with which I am not now concerned. The present Subject is History, and not Argument ; and my Intention is only to set before the Reader an Account of their original Charter, Constitution, and Opinions, which I now go on with.

The Spirit of Persecution and of Emigration increasing during the following Years, great Numbers of Puritans, made uneasy at Home, fled for Shelter to *New England*. Many of these fixed their Settlements in other Parts of the Country, which were not contained within the Limits of the *Massachusetts Patent*.

Of these straggling and outlying Plantations, some chose to annex themselves to the *Massachusetts Government*, and others chose to set up a separate Government of their own. But each of these, in order to engage the Favour and Protection of their Parent Country, entered into the most solemn Engagements of Obedience to the King, and to the Laws of this Realm.

Two of these Associations in the South and North Part of *Piscataqua*, will give a sufficient Idea of all the rest.

These Townships and small Communities were afterwards joined to the *Massachusetts*: But the Nature of their Association is the more worthy of our Attention, because the whole Colony of *Connecticut*, till the Year 1664, stood upon no better a Foundation.

Those who settled on the North Side of the great Bay of *Piscataqua*, associated themselves under the following Engagement.

“ Whereas

“ Whereas sundry Mischiefs and Inconveniences have befallen us, and more and greater may, in regard of want of civil Government, his gracious Majesty having settled no Order for us to our Knowledge, we whose Names are under written, being Inhabitants upon the River *Piscataqua*, have voluntarily agreed to combine ourselves into a Body politic, that we may the more comfortably enjoy the Benefit of his Majesty’s Laws, and do hereby actually engage ourselves to submit to his Royal Majesty’s Laws, together with all such Laws as shall be concluded by a major Part of the Freemen of our Society, in case they be not repugnant to the Laws of *England*, and administered in Behalf of his Majesty. And this we have mutually promised and engaged to do, and so to continue till his excellent Majesty shall give other Orders concerning us. In witness whereof we have hereunto set our Hands October 22, in the 16th Year of the Reign of our Sovereign Lord *Charles*, by the Grace of God King of Great-Britain, France, and Ireland, Defender of the Faith, &c.”

Signed by THOMAS LARKHAM,
and forty others.

Those

Those to the Southward built the Town of *Exeter*, and associated themselves in the Manner following:

“ Whereas it hath pleased the Lord to move
“ the Heart of our dread Sovereign *Charles*, &c.
“ to grant Licence and Liberty to sundry of his
“ Subjects, to plant themselves in the Western
“ Parts of *America*: We his loyal Subjects, Mem-
bers of the Church of *Exeter*, situate and lying
“ upon the River *Piscataqua*, with other Inhabi-
“ tants there, considering with ourselves the holy
“ Will of God and our own Necessity, that we
“ should not live without wholesome Laws and
“ civil Government amongst us, of which we are
“ altogether destitute, do in the Name of *Christ*,
“ and in the Sight of God, combine ourselves to-
“ gether, to erect and set up among us such Go-
“ vernment as shall be to our best discerning,
“ agreeable to the Will of God, professing our-
“ selves subject to our Lord King *Charles*, ac-
“ cording to the Liberty of the *English* Colony of
“ the *Massachusetts*, and binding ourselves solemn-
“ ly, by the Grace and Help of *Christ*, and in
“ his Name and Fear, to submit ourselves to all
“ such Christian Laws as are established in the
“ Realm of *England*, to our best Knowledge, and
“ to all other such Laws, which shall upon good
“ Grounds

" Grounds be made and enacted among us, according to God, that we may live quietly and peaceably together in all Godliness and Honesty.

" October 24, 1639.

Signed by JOHN WHEELWRIGHT,
and thirty-six others.

Such was the original Constitution, and first Settlements of these Men, who are now disturbing the Manes of their pious Ancestors, and adjuring each other by the Memory of *their* Sufferings, to combine together against that Authority, under which their Forefathers took their first Establishment. Little did those good Men think, that their Descendants would ever arrive at such a Pitch of Impiety, as to call on them to be Witnesses to their seditious Town-meetings, their setting up their Trees of Liberty, and their open Pretensions of Independency on the *British* Government, to which these their Forefathers had thus solemnly plighted their Allegiance.

The Year 1640 put a full Period to the Emigration. In the twenty preceding Years about 21,200 Persons had fled from the Oppressions of the Hierarchy, making about 4000 Families. The opening of the Parliament effectually removed this Grievance; and the Recovery of religious Liberty at Home, put an End to the Desire of seeking it Abroad. From this Year all their Accounts agree,

agree; that as many People have returned from *New England* hither, as have gone from hence to *New England*. And the whole Increase of the Colony has arisen, not from any Accession of People from hence, but from the natural Course of Population in a plentiful Country, and a lax Settlement, where every one easily obtained as much Land as he could employ. Here therefore properly ends the History of their Colonization, and the Merit of their forming a new Settlement.

Whatever Privileges therefore can now be claimed as original Charter Rights, or Motives of their first Settlement, or Covenants of Colonization, as they now call them, ought to be produced from Grants or Charters prior to this Period. For since that no new Settlements were made, and all the after Enlargements were only Continuations of the old. What these Privileges are more than a Right to the Soil, to Corporation Government, to Liberty of Conscience in *America*, and a Right to be received as natural-born Subjects, when they return to *England*, will not perhaps be easily shewn.

That I may not however be thought to omit any thing, which may contribute to the Reader's Information, it is proper to set before him the following Resolution of Council.

At the Court at Whitehall, January 19, 1632.

SIGILLUM CRESCENT,

Lord Privy Seal,	Mr. Trevers,
Earl of Dorset,	Mr. Vice Chamberlain,
Lord Viscount Falkland,	Mr. Secretary Cooke,
Lord Bishop of London,	Mr. Secretary Windebank.
Lord Cottington,	

“ Whereas his Majesty hath lately been informed of great Distraction and much Disorder in the Plantations in the Parts of *America* called *New England*, which, if they be true, and suffered to run on, would tend to the Dishonour of the Kingdom, and utter Ruin of that Plantation; for Prevention whereof, and for the orderly settling Government, according to the Intention of those Patents, which have been granted by his Majesty, and from his late Royal Father King *James*; it hath pleased his Majesty, that the Lords and others of his most honoured Privy Council, should take the same into Consideration. Their Lordships, in the first Place, thought fit to make a Committee of this Board, to take Examination of the Matters informed; which Committee having called divers of the principal Adventurers in that Plantation, and heard those that are Complainants against them, most of the Things informed being denied, and

“ resting to be proved by **Parties**, that must be
 “ called from that Place, which required a long
 “ Expence of Time ; and their Lordships finding,
 “ they were upon Dispatch of Men, Victuals, and
 “ Merchandise for that Place, all which would
 “ be at a Stand, if the Adventurers should have
 “ Discouragement, or take Suspicion that the
 “ State here had no good Opinion of that Plan-
 “ tation ; their Lordships not laying the Faults
 “ or Fancies (if any be) of some particular Men
 “ upon the general Government, or principal
 “ Adventurers, which in due Time is further to
 “ be enquired into, have thought fit in the mean
 “ Time to declare, that the Appearances were so
 “ fair, and Hopes so great, that the Country
 “ would prove both beneficial to this Kingdom,
 “ and profitable to the Particulars, as that the
 “ Adventurers had Cause to go on chearfully with
 “ their Undertakings, and rest assured, if Things
 “ were carried, as was pretended, when the Pa-
 “ tents were granted ; and accordingly, as by the
 “ Patents it is appointed, his Majesty would not
 “ only maintain the Liberties and Privileges here-
 “ tofore granted, but supply any thing farther
 “ that might tend to the good Government,
 “ Prosperity, and Comfort of his People there,
 “ of that Place, &c.”

WILLIAM TRUMBALL.

This

This Resolution of Council has often been referred to as another Royal Confirmation of their Claims. But whatever might have been thought about a Charter under the Great Seal, it could not even in those Days have been imagined, that an Order of Council can be of Force against an Act of Parliament. Should it still be said, that though not of equal Force with a Charter, yet it was a Proof of the King's good Will to them, and an Encouragement to go on with the Settlement. Doubtless it was so; and it was a Caution to them also, that they should strictly adhere to their Charter, from which two Years after they nevertheless made a capital Departure, by the sending Deputies instead of coming themselves, to their General Court. The Conditionality therefore of this Declaration of Council, and the strict Limitation of it to their acting according to their Charter, will not allow it, I fear, to add much to the Strength of their former Grants. And the variable and uncertain Conduct, which *Charles the First* held towards them, leaves but little Ground for the Colony to value themselves upon any of his Royal Encouragements.

This Order of Council refers itself to a future Enquiry; and the next Year produced another, expressing very different Sentiments.

“ Whereas the Board is given to understand of
“ the frequent Transportation of great Numbers,
“ of his Majesty’s Subjects out of this Kingdom
“ to the Plantation of *New England*, among
“ whom divers Persons, known to be ill-affected,
“ discontented not only with civil, but ecclesi-
“ astical Government here, are observed to resort
“ thither; whereby such Confusion and Distrac-
“ tion is already grown there, especially in Point
“ of Religion, as beside the Ruin of the said
“ Plantation, cannot but highly tend to the Scan-
“ dal both of Church and State here; And
“ whereas it was informed in particular, that there
“ are at this present divers Ships in the River of
“ *Thames* ready to set sail thither, freighted with
“ Passengers and Provisions; it is thought fit and
“ ordered, that Stay should be forthwith made
“ of the said Ships, until further Order from this
“ Board. And the several Masters and Freighters
“ of the same should attend the Board on *Wed-*
“ *nesday* next in the Afternoon, with a List of
“ the Passengers and Provisions in each Ship.
“ And that Mr. *Cradock*, a chief Adventurer in
“ that Plantation, now present before the Board,
“ should be required to cause the Letters Patent
“ for the said Plantation to be brought to this
“ Board.”

And

And although, as their Historian *Hubbard* relates it, at a “ second Hearing upon a Charge brought against them before the Council, it pleased God so to work with the Lords of the Council, and afterwards with the King’s Majesty, that the King said, That he would have such severely punished as should abuse his Governor and the Plantation, and dismissed them with a favourable Order for their Encouragement ; being assured from some of the Council, that his Majesty did not intend to impose the Ceremonies of the Church of *England* upon them ; for that it was considered, that it was for the Sake of Freedom from those Things that People went over thither :” Yet these must have been good Words of a very short Continuance ; for soon after he conceived a very different Opinion of them.

The very next Year after they had chosen their Deputies, a Commission was issued to several of the Nobility and great Officers of State, for the Regulation of the Colonies. And a *Quo Warranto* was brought by Sir John Banks the Attorney-General against the Governor, Deputy Governor, and Assistants of the Corporation of *Massachusetts*, and Judgment given, that the Liberties and Franchises should be seized into the King’s Hand. In consequence of this, an Order was made out by the Clerk of the Council for the Surrendry of the Charter :

Charter: And they were commanded to send it back to *England* by the next Ship. But the Judgment not having been entered, this occasioned a Delay: And soon after the Risings in *Scotland*, and the Meeting of the *English* Parliament found the King far other Employ.

The Petition which they presented upon that Occasion speaks a Language very different from that of their Descendants.

Copy of the General Court's Address, the 6th of September, 1638.

To the Right Honourable the Lords Commissioners for foreign Plantations,

The humble Petition of the Inhabitants of the *Massachusetts* in *New England*, of the General Court there assembled the 6th Day of *September*, in the 14th Year of the Reign of our Sovereign Lord King *Charles*.

“ Whereas it hath pleased your Lordships, by
 “ Order of the 4th of *April* last, to require our
 “ Patent to be sent unto you, we do hereby hum-
 “ bly and sincerely profess, that we are ready to
 “ yield all due Obedience to our Sovereign Lord
 “ the King's Majesty, and to your Lordships un-
 “ der him, and in this Mind we left our native
 “ Country,

“ Country, and according thereunto hath been
 “ our Practice ever since ; so as we are much
 “ grieved, that your Lordships should call in our
 “ Patent, there being no Cause known to us, nor
 “ any Delinquency or Fault of ours expressed in
 “ the Order sent to us for that Purpose, our Go-
 “ vernment being according to his Majesty’s Grant,
 “ and we not answerable for any Defects in our
 “ Plantations, &c.

“ This is that which his Majesty’s Subjects here
 “ do believe and profess, and thereupon we are all
 “ humble Suitors to your Lordships, that you
 “ will be pleased to take into further Considera-
 “ tion our Condition, and to afford us the Liberty
 “ of Subjects, that we may know what is laid to
 “ our Charge ; and have Leave and Time to an-
 “ swer for ourselves, before we be condemned as
 “ a People unworthy of his Majesty’s Favour or
 “ Protection ; as for the *Quo Warranto* mention-
 “ ed in the same Order, we do assure your Lord-
 “ ships we were never called to answer to it, and
 “ if we had, we doubt not but we have a suffi-
 “ cient Plea to put in.

“ It is not unknown to your Lordships, that
 “ we came into these remote Parts with his Ma-
 “ jesty’s Licence and Encouragement, under his
 “ great Seal of *England*, and in the Confidence
 “ we had of that Assurance we have transported
 “ our

“ our Families and Estates, and here we have
“ built and planted, to the great Enlargement
“ and securing of his Majesty’s Dominions in these
“ Parts, so as if our Patent should now be taken
“ from us, we shall be looked on as Renegadoes
“ and outlawed, and shall be enforced, either to
“ remove to some other Place, or to return into
“ our native Country again ; either of which will
“ put us to insupportable Extremities, and these
“ Evils (among others) will necessarily follow :
“ (1.) Many thousand Souls will be exposed to
“ Ruin, being laid open to the Injuries of all
“ Men. (2.) If we be forced to desert this Place,
“ the rest of the Plantations (being too weak to
“ subsist alone) will, for the most Part, dissolve
“ and go with us, and then will this whole Coun-
“ try fall into the Hands of the *French* or *Dutch*,
“ who would speedily embrace such an Opportu-
“ nity. (3.) If we should lose all our Labour
“ and Costs, and be deprived of those Liberties,
“ which his Majesty hath granted us, and nothing
“ laid to our Charge, nor any Failing to be found
“ in us in Point of Allegiance (which all our Coun-
“ trymen do take Notice of, and will justify our
“ Faithfulness in this Behalf) it will discourage
“ all Men hereafter from the like Undertakings,
“ upon Confidence of his Majesty’s Royal Grant.
“ Lastly, if our Patent be taken from us, (where-
“ by we suppose we may claim Interest in his
“ Majesty’s Favour and Protection) the common
“ People

“ People here will conceive that his Majesty hath
 “ cast them off, and that, hereby, they are freed
 “ from their Allegiance and Subjection, and,
 “ thereupon, will be ready to confederate them-
 “ selves under a new Government, for their ne-
 “ cessary Safety and Subsistence, which will be
 “ of dangerous Example to other Plantations,
 “ and perilous to ourselves of incurring his Ma-
 “ jesty’s Displeasure, which we would by all
 “ Means avoid.

“ Upon these Considerations we are bold to
 “ renew our humble Supplications to your Lord-
 “ ships, that we may be suffered to live here in
 “ this Wilderness, and that this poor Plantation,
 “ which hath found more Favour from God than
 “ many others, may not find less Favour from
 “ your Lordships; that our Liberties should be
 “ restrained, when others are enlarged; that the
 “ Door should be kept shut unto us, while it
 “ stands open to all other Plantations; that Men
 “ of Ability should be debarred from us, while
 “ they have Encouragement to other Colonies:

“ We dare not question your Lordships Pro-
 “ ceedings; we only desire to open our Griefs
 “ where the Remedy is to be expected: If in any
 “ thing we have offended his Majesty and your
 “ Lordships, we humbly prostrate ourselves at
 “ the Footstool of supreme Authority; let us be

“ made the Object of his Majesty’s Clemency,
 “ and not cut off, in our first Appeal, from all
 “ Hope of Favour. Thus, with our earnest
 “ Prayers to the King of Kings for long Life and
 “ Prosperity to his Sacred Majesty and his Royal
 “ Family, and for all Honour and Welfare to
 “ your Lordships, we humbly take Leave.”

Far be it from me to justify these Severities used towards them, or the *Quo Warrantos* issued against their Charter by both the *Charles’s*; but it is impossible to avoid remarking the Presumption of their Writers, who boast of Favour, &c.

The Parliament in the Year 1642 took their Part, and passed an Order in their Favour. But the Style of it shews, that how well soever they might be affected towards them, the House of Commons well knew their own Authority. This Order runs thus:

Veneris, 10 March 1642.

“ Whereas the Plantations in *New England*
 “ have, by the Blessing of the Almighty, had
 “ good and prosperous Success, without any pub-
 “ lic Charge to this State, and are now likely to
 “ prove very happy for the Propagation of the
 “ Gospel in those Parts, and very beneficial and
 “ commodious to this Kingdom and Nation.
 “ The Commons now assembled in Parliament
 “ do,

“ do, for the better Advancement of those Plantations, and the Encouragement of the Planters to proceed in their Undertaking, ordain that all merchandizing Goods, that by any Person or Persons whatsoever, Merchants or others, shall be exported out of this Kingdom of *England* into *New England* to be spent, used, or employed there, or being of the Growth of that Country, shall be from thence imported hither, or shall be laden or put on board any Ship or Vessel for Necessaries in passing to and fro, and all and every the Owner or Owners thereof, shall be free and discharged of and from paying and yielding any Custom, Subsidy, Taxation, or other Duty for the same, either inward or outward, either in this Kingdom or *New England*, or in any Port, Haven, Creek, or other Place whatsoever, until the House of Commons shall take further Order therein to the contrary. And all and singular Customers, Farmers, and Collectors of Customs, Subsidies, and Imposts, and other Officers, Ministers, and Subjects whatsoever, are hereby required and enjoined, that they and every of them, upon the shewing forth unto them this Order, or a true Copy thereof, under the Hand of the Clerk of the House of Commons, without any other Writ or Warrant whatsoever, do make full, whole and entire, and due Allowance and clear Discharge unto the said Owners of the

“ said Goods and Merchandise, their Factors,
“ Servants, and Agents; according to the Tenor
“ and true Meaning of this Order.”

H. ELSSING, Cler. Parl. D. Com.”

The first Man, who seems to have had a just Notion of the Nature and Use of Colonies, was *Cromwell*. In their Infancy they had scarcely been an Object of Legislation. And till his Time they had been suffered to trade as they could, and wheresoever they pleased. But he passed an Ordinance of Parliament, prohibiting the Plantations from receiving or exporting any *European* Commodities, except in *English* built Ships, navigated by *Englishmen*; and forbidding all Correspondence with any Nation or Colony not subject to *England*; and allowing no Alien to set up a Factory, or to carry on Trade in the Plantations. And this Idea was afterwards improved and enlarged in the several Acts of Navigation under *Charles II.*

Soon after the Restoration the Colony again received Notice of Complaints, with an Order for the King to send over proper Persons to make Answer to them. The general Court being called, appointed two Agents, and sent them with an Address of Congratulation on his Majesty's Accession. This Address, as Mr. *Neal* relates it, after Expressions of their Loyalty, goes on to implore his Majesty's Protection of them in the free

Exer-

Exercise of their Religion. "We supplicate your
" Majesty (say they, in a Stile very different from
" their modern Compositions) for your gracious
" Protection of us in the Continuance both of our
" civil and religious Liberties, according to the
" Grantees known End of suing for the Patent
" conferred upon this Plantation by your Royal
" Father. Our Liberty to walk in the Way of
" the Gospel, with all good Conscience, accord-
" ing to the Order of the Gospel, was the Cause
" of our transporting ourselves with our Wives,
" our little ones, and our Substance, from that
" pleasant Land, over the *Atlantic* Ocean into the
" vast Wilderness, choosing rather the pure Scrip-
" ture Worship with a good Conscience in this
" remote Wilderness, than the Pleasures of *Eng-*
" *land*, with Submission to the Impositions of the
" then so disposed, and so far prevailing Hierarchy,
" which we could not do without an evil Con-
" science.—We are not seditious, as to the Interest
" of *Cæsar*, nor schismatical, as to Matters of
" Religion.—We distinguish between Churches
" and their Impurities.—We could not live with-
" out the public Worship of God, nor be per-
" mitted the public Worship, without such a
" Yoke of Subscription and Conformity, as we
" could not consent unto without Sin. That we
" might therefore enjoy Divine Worship without
" human Mixtures, without Offence to God,
" Man, and our own Consciences, We with Leave,

" but

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" but not without Tears, departed from our Country,
" Kindred, and Fathers Houses into this *Patmos.*"

NEAL, Vol. I. p. 350.

The Agents returned with the King's Answer under various Heads: And in one Part of it, after accepting the Professions of their Loyalty, the King expressly declares: " We will preserve, and do hereby confirm the Patent and Charter here- tofore granted unto them by our Royal Father of blessed Memory; and they shall fully enjoy all the Privileges and Liberties granted to them in and by the same; and we will be ready to renew the same Charter to them under our great Seal of *England*, whensoever they shall desire it."

This is the Letter, which they so often boast of, as a Royal Confirmation of their Charter; and such it doubtless is. But they say nothing of the other Parts of the Letter, requiring among many other Things a Revision of all their Laws, and a Repeal of every Thing derogatory to the King's Authority; the Allowance of the Use of the Common Prayer; and the Permission of Persons of all Persuasions to vote at their Elections.

Some of these royal Requisitions they evaded, and others they never complied with, and thereby lost the Benefit of this Grace, and incurred the King's

King's Displeasure, under which they suffered during the whole Course of this Reign.

In consequence of this Disobedience, the King in the Year 1664 issued a special Commission under the great Seal, empowering Colonel *Nichols* and three other Persons there named to go over, and enquire into the State of the Colony ; “ and to hear “ and determine all Complaints and Appeals in all “ Causes and Matters, military, criminal, and civil, “ according to their good and sound Discretion, and “ to such Instructions as they have or shall receive.”

Upon the Return and Report of these Commissioners, a Variety of Suits and Complaints were instituted against them, till at length they ended in the Condemnation of their Charter, and the total Dissolution of their Government in the Year 1684.

King *Charles* the Second lived to finish the Dissolution of the Government under the old Charter, and King *James* succeeded to the Exercise of his Despotism over the Province to his full Extent. Sir *Edmund Andros* was sent to be their Governor ; who suffered them to elect no Assembly or Council, and to have no other Government than what consisted with his arbitrary Will. He himself made Laws, raised Troops, levied Taxes, and directed all Things, with the Assistance only of a Council of his own Creatures, whom he made the

Instru-

Instruments of his Tyranny, and the Harpies of his Avarice.

To satisfy both these, and bring the Province into a State of absolute Subjection, the People were told, that their Charter being dissolved, their Titles to their Lands were forfeited with it, or in the brutal Phrase of the Time, That the Calf died in the Cow's Belly. Under this Pretence all Persons were called upon to take out new Patents for their Lands, subject to such Fines as should be imposed ; and Writs of Intrusion were brought against those who refused, to dispossess them of their Estates.

Besides this general Exception to all Titles, that they were derived from a Grantor, which, now the Charter was gone, had no Title : The Case of Towns was yet worse ; for they were declared to be not capable of taking any Estates.

The Town of *Ipswich* remonstrated against the paying Taxes, levied by the Governor's sole Authority without the Consent of an Assembly, or of Parliament. And the Selectmen voted, " That inas-
 " much as it is against the Privileges of *English*
 " Subjects to have Money raised, without their
 " own Consent in an Assembly, or Parliament ;
 " therefore they will petition the King for Li-
 " berty of an Assembly, before they make any
 " Rates,"

" Rates." For this two of them were imprisoned, and the rest were fined 20, and 30, and 50 l. a Man.

The Proceedings of the Town of *Cambridge*, in which was their College, and which therefore may be supposed to have known their Constitution, shews the abject State of Despondency, to which they were reduced. The more to move Compassion, they set their two oldest Inhabitants at their Head, and petitioned in the following Manner :

To the King's Most Excellent Majesty.

The Petition and Address of *John Gibson*, aged about 87, and *George Willow*, aged 86 Years, as also on Behalf of their Neighbours, the Inhabitants of *Cambridge* in *New England*, in most humble wise sheweth,

" That your Majesty's good Subjects, with
 " much hard Labour and great Disbursements,
 " have subdued a Wilderness, built our Houses,
 " and planted Orchards; being encouraged by
 " our indubitable Right to the Soil, by the Royal
 " Charter granted under the first Planters, toge-
 " ther with our first Purchase of the Natives; as
 " also by sundry Letters and Declarations sent to
 " the late Governor and Company from his late
 " Majesty your Royal Brother, assuring Us of

“ the full Enjoyment of our Properties and Possessions, as is more especially contained in the Declaration sent, when the *Quo Warranto* was issued out against our Charter. But we are necessitated to make this our Moan and Complaint to your Excellent Majesty; for that our Title is now questioned to our Lands, by us quietly possessed for near sixty Years, and without which we cannot subsist. Our humble Address to our Governor, Sir *Edmund Andros*, shewing our just Title, long and peaceable Possession; together with our Claim of the Benefit of your Majesty's Letters and Declarations, assuring all your good Subjects that they shall not be molested in their Properties and Possessions, not availing.

“ Royal Sir, We are a poor People, and have no Way to procure Money to defend our Cause in the Law, nor know we of Friends at Court; and therefore unto your Royal Majesty, as the Public Father of all your Subjects, do we make this our Humble Address for Relief, beseeching your Majesty graciously to pass your Royal Act for the Confirmation of your Majesty's Subjects here in our Possessions, to Us derived from our late Governor and Company of this your Majesty's Colony. We now humbly cast ourselves and the distressed Condition of our Wives and Children at your Majesty's Feet, and conclude

" clude with that Saying of Queen *Esther*. *If we perish, we perish.*"

Such was the arbitrary Rule of *James II.* and this is the Reign, to which the Faction of *Boston* have compared his Majesty's. With this singular Difference, that whereas their Ancestors threw themselves at the Feet of King *James*, they traitorously exhort their People to Arms against Acts of Parliament passed by his Majesty.

UPON a Review of this History, which is all extracted from *Neal* and *Hutchinson*, the Reader will be at a Loss to think what can be the Foundation of those extensive Claims, which these Men have of late been making: Nor will he easily conceive from what Part of their Constitution they derive the least Pretence of Exemption from the Jurisdiction of Parliament. And yet if there be any such Exemption, it must certainly be found in some of their Patents or Charters antecedent to the Revolution. Under the prerogative Reigns of a *Stuart* or a *Tudor*, Grants of this Sort might possibly have passed: But from that happy Æra of our Liberties, the Power of the Crown has been too clearly ascertained, and the Authority of Parliament too firmly established, to admit of any Competition between them.

I have hitherto said nothing, therefore, of the Charter of King *William*; because, though that is the only Charter which the Province of *Massachusetts* now has, and is by far the most advantageous Charter for the People there, which they ever had; yet they themselves must know, that that can be no Foundation for their Claim.

King *William* could not grant such a Charter of Independence, King *William* never would have done it, King *William* never did do it.

This great Restorer of the Liberties of Parliament too well knew his own Powers, to warrant the least Supposition of this Kind. Could a parliamentary King assume to himself a Power superior to the Laws which made him? Could King *William*, who derived the Authority, which he possessed over all the *English* Dominions, only from Parliament, derive from thence a Power of making the Subjects of any Part of those Dominions independent on Parliament?

If the Crown have a Power to grant to the Subjects of any one Part of the *British* Empire, an Exemption from the Authority of Parliament, it may by the same Power exempt any other Part, and consequently may take all the Parts from out of its Jurisdiction. The
very

very Perfection of Tyranny and Dispotism. Could King *William* ever have thought of such a Thing, which he most certainly did not; yet what Chancellor could have been found hardy enough to have set the Seal to such a Charter. That Minister's Head would sit very loosely upon his Shoulders, who at any Time since the Revolution should advise the Crown to an Attempt to render a single Subject independent of Parliament; and much more who should dare to draw a Charter, which would take away whole Provinces from its Jurisdiction.

The great and principal Ground of King *James's* Forfeiture and Expulsion, was his Attempting to suspend the Laws of Parliament, with respect to the Papists, who were a small Part only of his Subjects; is it possible then to suppose, that Sir *John Somers*, Sir *George Treby*, and the greatest Lawyers of the Age immediately after the Revolution, could have presumed to draw up and pass a Patent under the great Seal, which should not merely suspend for a Time, but absolutely Abolish for ever, the Power of Acts of Parliament over a great Part of *English Empire*.

If we look into the History of the Passing of this Charter, every Part of it shews, that nothing could be farther from the Thoughts of the
King

King and Council, than the granting of any such Exemption. And the Account of these Transactions will fully illustrate every Thing which has been said, both of the former Charter and of this.

Upon the Accession of King *William*, the People at *Boston* seized upon their Governor, and called a Convention. This Assembly added two more Agents to the two, which were before in *England*, and sent them over with Instructions “to solicit the Confirmation of their antient Charter, and all its Rights and Privileges; and, if there should be Opportunity, to endeavour the obtaining such farther Privileges, as might be of Benefit to the Colony.”

The House of Commons had resolved, that the seising of the Charters of the Corporations and Colonies in King *Charles's* Time was Illegal: And a Bill had been brought in for the Renewal of them, though it did not pass. The Agents therefore hoped, that they might be allowed to resume their Charter. The Colony of *Connecticut*, having never stood a Trial, but only passively submitted, in the Year 1684, and having had no Judgment entered against their Charter, nor any Surrendry thereof upon Record, actually did resume theirs. But the Case of *Massachusetts* was different, they having stood Tryal, and having had Judgment entered against them. The same great

great Lawyers, therefore, *Ward, Somers, and Treby*, who found that *Connecticut* might resume their former Charter, determined that *Massachusetts* could not.

The King resolved therefore to grant them a new Charter; and to reserve to himself the naming of a Governor, and some other Officers; and directed the Attorney and Solicitor General to draw one. The first Draught was thought too loose, and was rejected. A second being drawn more agreeably to the King's Instructions, was shewn to the Agents, with a Liberty given them to offer any Objections. But upon Mr. *Mather*'s saying that he would sooner part with his Life than consent to it, they were told, that the Consent of the Agents was not desired: That the Agents from *New England* were not Plenipotentiaries from a Sovereign State: And that, if they declared they would not submit to the King's Pleasure, his Majesty would settle the Country, and they might take what would follow.

Two of the Agents still insisted on their old Charter, to which the Province at that Time was strongly Attached, tho' with very little Reason. For the State of their Case having been referred to Council, the Opinion given upon it was as follows.

" That

“ That a bare Restitution of the Charters, and
 “ especially of the *Massachusetts*, would be of no
 “ Service at all ; as appears both from the Char-
 “ ters itself and from the Practice of that Colony,
 “ who have hardly pursued the Terms thereof in
 “ any one Instance. As to the Charter itself, that
 “ Colony, if they should have it, would want,

I. “ A Power to call a select Assembly ; for
 “ there many thousand Freemen have an equal
 “ Right to set in the Assembly.

II. “ A Power to lay Taxes and raise Money,
 “ especially on Inhabitants not Freemen, and
 “ Strangers coming to trade there.

III. “ They have no Admiralty.

IV. “ They have no Power to keep a Prerogative Court, to prove Wills, &c.

V. “ Nor to erect Courts of Judicature, especially Chancery Courts.”

The Reader easily sees, that the Charter having been originally given to a Company resident in *England*, all these Things were then provided for here in the King’s Courts.

The other two Agents, Mr. *Mather* and Sir *William Ahurst*, drew up their Objections against

the Minutes; which were presented to the Attorney-General, and laid before the Council; and a Copy sent to the King in *Flanders*: who disapproved of the Objections, and ordered the Charter to be drawn up according to the Minutes. It was still urged on the Part of the Province, that they thought it would be a singularly hard Case, that the Effects of the late Tyranny should be felt by them alone, of all their Majesty's Subjects: all the other Charters having by one Means or other been restored. But to this it was answered, That there was this Difference between the Case of the *Massachusetts*, and most of the other Charters. In general, there was no Room for legal Exception to the Powers exercised by the Corporations; but the *Massachusetts* Charter, not being intended when it was granted for such Government, as is necessary to be exercised in a Colony remote from its Mother Country, a Reversion of the former Judgment would have been of no Service: * And Sir George Treby declared to Mr. Mather, Sir John Somers, and the two Lords Chief Justices being present, and assenting to it, that "if the Judgment against the Charter should be reversed, and the Government should exercise those Powers, which, before the *Quo Warranto*, they had done, a new Writ would issue out against them in *Westminster-hall*, and there would be a Judgment against them, and such an one as there would be no Room for a Writ of Error." By

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* *Hutchinson*, Page 414.

the old Charter, it was said, they had Power to imprison or inflict Punishment in criminal Cases, according to the Course of Corporations in *England*, but that, unless capital Cases be expressly mentioned, the Power would not reach *them*. That no Power was given to erect *Judicatories*, or Courts for Probate of Wills ; or with Admiralty Jurisdiction ; nor had they any Power to constitute a House of Deputies or Representatives, nor to impose Taxes on the Inhabitants ; nor to incorporate Towns, Colleges, Schools, &c. which Powers and Privileges had been notwithstanding usurped.

Can the Reader ask for higher Authority, to prove the extreme Defectiveness of this ancient Charter ? Is it to be supposed that a Charter which fails in so many Points, which are absolutely necessary to constitute any Government at all ; should be intended in this single Instance to convey a greater Privilege, than was ever before given to a Subject : the Right of being exempted from the Jurisdiction of Parliament ? That a Charter, which was so very short sighted, as not to provide a proper Power to raise Taxes for the Support of their own Provincial Government ; should yet have looked so very far forward, as to provide that they shall not be taxed by Parliament, for the general Service of the whole Empire. And yet this is the Charter, which their
factious

factional Leaders have been spreading before them in every Attack upon the *British* Legislature. May I not say too, that this is the Charter, which has benumb'd the Powers of the Legislature for three Sessions together, as if they were afraid to look at it.

If we look into King *William's* Charter itself, we shall see that there is not a single Expression, which can warrant the Supposition of any such exclusive Right.

The Charter gives them the Power of laying Taxes upon themselves, for the Support and Defence of the Government there, without which no Government could subsist : And doubtless it never could have been thought reasonable, that this Country should charge itself with the Expence of maintaining their civil Establishment. But for the Taxes necessary for the Support and Well-being of the whole Empire, the Right of raising these, and of assigning to each of the several Parts of it their respective Proportions, this is a Right which ever was, and ever must be inherent in that supreme Authority, which pervades and superintends the Whole ; nor is there a single Word in the Charter which impeaches it.

The Charter is too long to be inserted; the Reader will find it at the End of *Neal's History*, and in many other Places.

I here give him the Clauses, to enable the General Court to make Laws, to name Offices, and to levy Taxes; which is the whole of it, that relates to the present Subject.

“ And we do further, for us, our Heirs and Successors, give and grant to the said Governor, and the Great and General Court or Assembly of our said Province or Territory, for the Time being, full Power and Authority, from Time to Time, to make, ordain, and establish all Manner of wholesome and reasonable Orders, Laws, Statutes, and Ordinances, Directions and Instructions, either with Penalties or without (so as the same be not repugnant or contrary to the Laws of this our Realm of *England*) as they shall judge to be for the Good and Welfare of our said Province or Territory, and for the Government and ordering thereof, and of the People inhabiting, or who shall inhabit the same; and for the necessary Support and Defence of the Government thereof. And we do for us, our Heirs and Successors, give and grant, that the said General Court or Assembly, shall have full Power and Authority

“ Authority, to name and settle annually all civil
“ Officers within the said Province, such Officers
“ excepted, the Election and Constitution of
“ whom we have by these Presents reserved to us,
“ our Heirs and Successors, or to the Governor
“ of our said Province for the Time being; and
“ to set forth the several Duties, Powers, and
“ Limits of every such Officer to be appointed
“ by the said General Court or Assembly; and
“ the Forms of such Oaths, not repugnant to the
“ Laws and Statutes of this our Realm of *Eng-*
“ *land*, as shall be respectively administred unto
“ them for the Execution of their several Offices
“ and Places; and also to impose Fines, Mulcts,
“ Imprisonments, and other Punishments; and
“ to impose and levy proportionable and reason-
“ able Assessments, Rates, and Taxes, upon the
“ Estates and Persons of all and every the Pro-
“ prietors and Inhabitants of our said Province
“ or Territory, to be issued and disposed of by
“ Warrant under the Hand of the Governor of
“ our said Province for the Time being, with
“ the Advice and Consent of the Council, for our
“ Service in the necessary Defence and Support
“ of our Government of our said Province or
“ Territory, and the Protection and Preservation
“ of the Inhabitants there, according to such Acts
“ as are or shall be in Force within our said Pro-
“ vince.”

If now, under the limited Powers of the Crown since the Revolution, any Man can think, that by giving them Power to raise Money for the Purposes of their own provincial Government, King *William* intended to restrain his Parliament from the Power of taxing them for the public Service : Such an one must allow too, that the preceding Paragraph is equally restrictive ; and that the Parliament is thereby debarred from making Laws for them ; for that Power also is granted in the very same Terms, and is expressly declared to be for the necessary Support and Defence of Government.

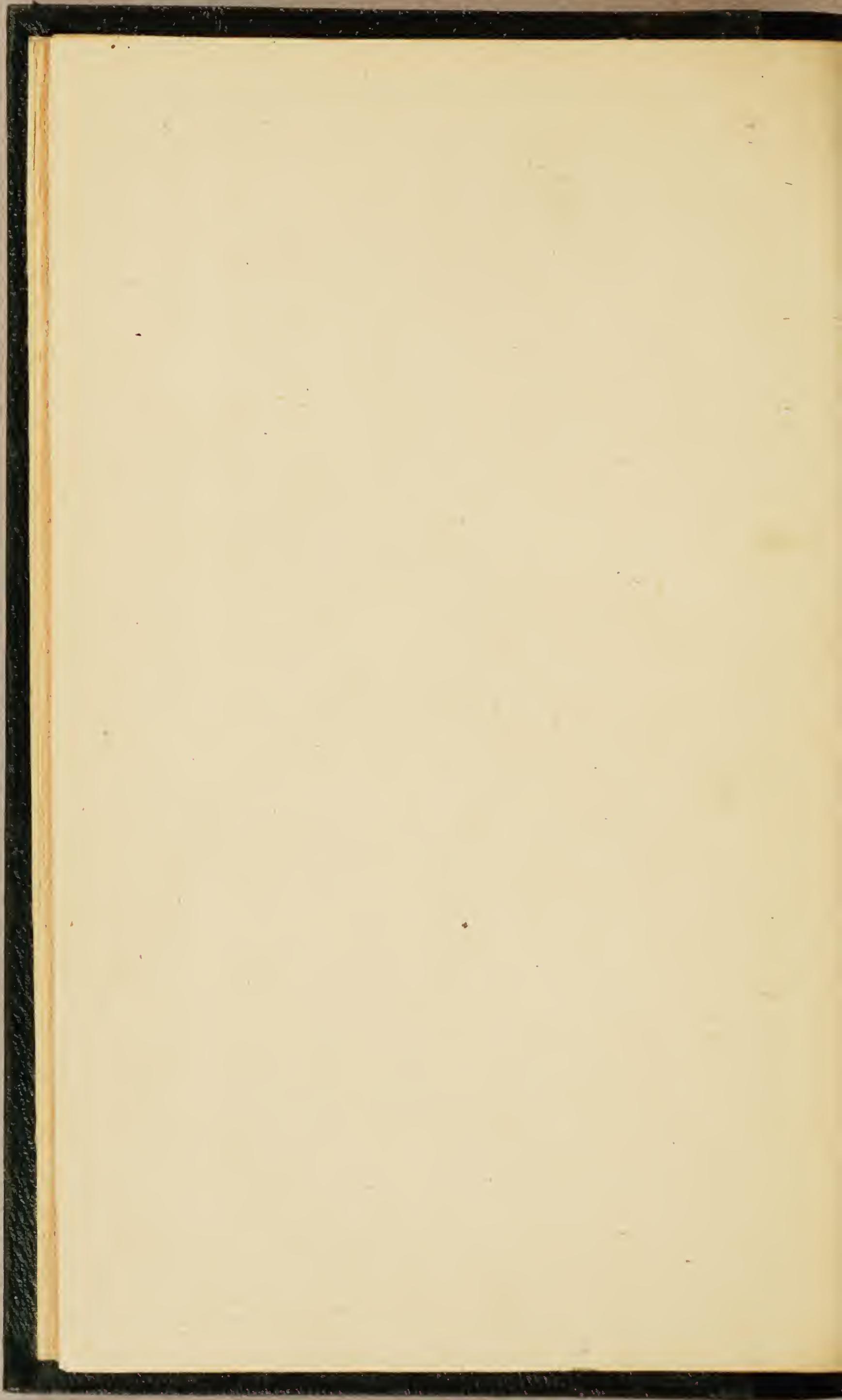
Such an one must also suppose, that Lord *Somers* and the King's Judges, when they remarked it to the Agents as a capital Defect in their first Charter, that it gave to the Province no Power of raising Taxes, which yet they ever had and would be forced to do, and thereby forfeit their Charter ; that the Defect, which they really meant, was, that they were not exempted from the Taxes of Parliament ; and that therefore they inserted this Clause into the new one, to prevent their forfeiting their new Charter by submitting to it.

To complete the Absurdity, such an one must suppose, at the same Time that Lord *Somers* and the *English* Judges were so intent upon putting them

them out of the parliamentary Jurisdiction ; that the Agents themselves were so very desirous of continuing under it ; that when the Minutes of this Charter, vesting in the Colony the whole Power of Government, was shewn to them ; they were all much dissatisfied with it ; and that Mr. Mather the Chief of them declared, That he would sooner lose his Life than consent to it.

If these Suppositions appear too absurd to admit of the Reader's Belief, he will then agree with me, that, when the People of *New England* pretend to any Right of Exemption from the Taxes of Parliament, they may, if they please, seek for Proofs from other Topics of Argument, and derive it if they can from other Sources, but will never find it in their Charter.

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